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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-572

13 **TAMARA VRADIY aka TAMARA**
14 **MIKHALSKAYA**

15 3947 Carpenter Ave. #202
16 Studio City, CA 91604

ACCUSATION

17 Registered Nurse License No. 659983

18 Respondent.

19 Complainant alleges:

PARTIES

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs (Board).

23 2. On or about July 5, 2005, the Board issued Registered Nurse License No. 659983 to
24 Tamara Vrادی aka Tamara Mikhalskaya (Respondent). The Registered Nurse License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on October
26 31, 2014, unless renewed.

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1 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
2 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
3 made suspending the imposition of sentence, irrespective of a subsequent order under the
4 provisions of Section 1203.4 of the Penal Code.”

5 8. Section 493 states, in pertinent part:

6 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
7 the department pursuant to law to ... revoke a license or otherwise take disciplinary action against
8 a person who holds a license, upon the ground that the applicant has been convicted of a crime
9 substantially related to the qualifications, functions, and duties of the licensee in question, the
10 record of conviction of the crime shall be conclusive evidence of the fact that the conviction
11 occurred, but only of that fact, and the board may inquire into the circumstances surrounding the
12 commission of the crime in order to fix the degree of discipline or to determine if the conviction
13 is substantially related to the qualifications, functions and duties of the licensee in question.”

14 9. Section 2761 states, in pertinent part:

15 “The board may take disciplinary action against a certified or licensed nurse or deny an
16 application for a certificate or license for any of the following:

17 (a) Unprofessional conduct, which includes, but is not limited to, the following:

18 ...

19 (d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
20 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
21 Act] or regulations adopted pursuant to it.

22 ...

23 (f) Conviction of a felony or of any offense substantially related to the qualifications,
24 functions, and duties of a registered nurse, in which event the record of the conviction shall be
25 conclusive evidence thereof. . . .”

26 10. Section 2762 states, in pertinent part:

27 “In addition to other acts constituting unprofessional conduct within the meaning of this
28 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this

chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

11. Section 2765 states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.”

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states, in pertinent part:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. . . .”

DRUG STATUTES

13. Health and Safety Code section 11377, subdivision (a), states, in pertinent part:

“Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison.”

14. Health and Safety Code section 11550, subdivision (a), states, in pertinent part:

“(a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in a county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and, except as provided in subdivision (c), shall in all cases in which probation is granted require, as a condition thereof, that the person be confined in a county jail for a least 90 days. Other than as provided by subdivision (c), in no event shall the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in a county jail.”

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2 **COST RECOVERY**

3 15. Section 125.3 states, in pertinent part, that the Board may request the administrative
4 law judge to direct a licensee found to have committed a violation or violations of the licensing
5 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
6 case.

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8 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

9 16. **Methamphetamine**, a central nervous system stimulant, is a Schedule II controlled
10 substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and is
11 categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

12 17. **Methylenedioxymethamphetamine (MDMA)**, having the street name of "ecstasy,"
13 is a Schedule I controlled substance as defined in Health and Safety Code sections 11054,
14 subdivision (d)(6), and 11401 [the Analog Act]. Health and Safety Code section 11401 is known
15 as the Analog Act.

16 18. **PCP (phencyclidine)**, is a Schedule II controlled substance as designated by Health
17 and Safety Code section 11055(e)(3). It is an addictive dissociative anesthetic that is used for the
18 mind-altering, hallucinogenic effects it produces. It is categorized as a dangerous drug pursuant
19 to Business and Professions Code section 4022. Also, having a street named known as
20 "Ketamine."

21
22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Conviction of a Substantially-Related Crime)**

24 19. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision
25 (f), in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent
26 was convicted of a crime substantially related to the qualifications, functions or duties of a
27 registered nurse which to a substantial degree evidences her present or potential unfitness to
28 practice in a manner consistent with the public health, safety, or welfare, as follows:

1 a. On or about December 16, 2011, after pleading *nolo contendere*, Respondent was
2 convicted of one misdemeanor count of violating Penal Code section 602, subdivision (k)
3 [trespass: injury to property], in the criminal proceeding entitled *The People of the State of*
4 *California v. Tamara Vradiy* (Super. Ct. Los Angeles County, 2011, No. 1PY05120). The court
5 sentenced Respondent to 1 day in jail, placed her on probation for a period of 12 months, and
6 fined her.

7 b. The circumstances surrounding the conviction are that on or about August 21, 2011,
8 officers from the North Hollywood Police Division were patrolling the area near a night club due
9 to high narcotic activity in the area of North Hollywood, California. The officers approached a
10 vehicle that contained Respondent as a passenger. Officers noted a strong odor of marijuana
11 emitting from the vehicle. The officers conducted a routine traffic stop to investigate for further
12 controlled substances and identified Respondent. During a consented search of the vehicle, the
13 officer recovered two (2) clear baggies containing what appeared to be a controlled substance,
14 from a red wallet belonging to the Respondent. Respondent admitted that the baggies contained
15 Ketamine. The officers also recovered a blue round Ecstasy pill from inside the red wallet
16 belonging to the Respondent. The officers observed Respondent displaying objective symptoms
17 of being under the influence of a controlled substance. The officers observed Respondent having
18 various mood changes from anger, calm, and sadness. The officers also observed Respondent to
19 be very agitated, and have rapid speech. At the Van Nuys Jail, the Respondent was examined by
20 a certified narcotic officer, who confirmed that Respondent was under the influence of a
21 controlled substance.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Illegal Possession of a Controlled Substance)**

24 20. Respondent is subject to disciplinary action under section 2762, subdivision (a), on
25 the grounds of unprofessional conduct, in that Respondent was found to be in possession of a
26 controlled substance without a valid prescription when she was convicted of a crime involving the
27 possession of a controlled substance as follows:
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1 a. On or about June 20, 2011, after pleading *nolo contendere*, Respondent was
2 convicted of one count of violating Penal Code section 415 [disturbing the peace], an infraction,
3 in the criminal proceeding entitled *The People of the State of California v. Tamara Vradiy* (Super.
4 Ct. Los Angeles County, 2011, No. 1PY02095).

5 b. The circumstances are that on or about April 18, 2011, officers from the North
6 Hollywood Police Division were patrolling the area near a night club due to high narcotic activity
7 in the area of North Hollywood, California. The officers observed a vehicle parked alongside the
8 alley illegally parked. The officers observed a male enter the driver side of the vehicle and turn
9 on the vehicle. After conducting a traffic stop of the vehicle, officers learned that the plates
10 appeared to belong to a stolen vehicle. The officers later identified that the vehicle belonged to
11 Respondent. During the investigation, the Respondent was observed by the officers exiting the
12 rear nightclub and she approached the officers. The Respondent began to yell at the officers and
13 stated that the vehicle belonged to her. The Respondent stated to the officers that everything
14 inside the vehicle belonged to her, and after being told by the officers that she was interfering
15 with an investigation by not allowing them to search the vehicle, she eventually complied with
16 the search of the vehicle. During the search of the vehicle, the officers recovered a clear baggy
17 containing what appeared to be cocaine, from inside of a passport in a red wallet, belonging to the
18 Respondent. The Respondent was placed under arrest for violating Health and Safety Code
19 section 11350, subdivision (a) [possession of a controlled substance]. Respondent later admitted
20 that the baggy contained Ketamine which she used "once a month for pain in her joints."

21 22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Dangerous Use of Controlled Substance)**

24 21. Respondent is subject to disciplinary action under section 2762, subdivision (b), on
25 the grounds of unprofessional conduct, in that Respondent used a controlled substance to an
26 extent or in a manner dangerous or injurious to herself, any other person, or the public or to the
27 extent that such use impairs her ability to conduct with safety to the public the practice authorized
28 by her license, as follows:

1 a. On or about April 1, 2011, while being employed as a registered nurse at Valley
2 Presbyterian Hospital, in the City of Van Nuys, California, Respondent was observed by another
3 registered nurse while changing shifts, falling asleep while getting the patient reports. Respondent
4 appeared scattered and unable to focus. The Respondent was also observed by the nursing
5 director to appear "sweaty" and appeared "off balance." The Respondent was subsequently sent
6 to Employee Health for assessment. The Respondent was found by the Employee Health Nurse to
7 have irregular behavior i.e., falling sleep, disheveled appearance, off balance, rapid speech, and
8 rapid deliberate sluggish movements during the physical exam. Respondent was observed to
9 have undergone a significant change in weight and appearance from the preliminary physical
10 given in February 2011. The Respondent was subsequently given a mandatory drug screen by
11 Quest-Diagnostics, which resulted in a positive screening for methamphetamine. Consequently,
12 Respondent was terminated from her employment at Valley Presbyterian Hospital, effective April
13 8, 2011. A formal complaint was filed shortly thereafter.

14 Complainant refers to and by this reference incorporates the allegations set forth above in
15 paragraphs 19 – 20 and all subparagraphs, inclusive, as though set forth fully herein.

16 17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Violation of Drug Laws)**

19 22. Respondent is subject to disciplinary action under section 2761, subdivision (d), in
20 that Respondent violated Health and Safety Code sections 11377, subdivision (a) and 11055,
21 subdivision (a) in conjunction with Health and Safety Code sections 11055, subdivision (d)(2),
22 11055, subdivision (e)(3) and 11054, subdivision (d). Complainant refers to and by this reference
23 incorporates the allegations set forth above in paragraphs 19 – 21 and all subparagraphs,
24 inclusive, as though set forth fully herein.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 23. Respondent is subject to disciplinary action under sections 2750 and 2761,
4 subdivision (a) and / or (d), in that Respondent committed acts constituting unprofessional
5 conduct as follows:

6 a. On or about June 13, 2012, Wilshire Police Division Officers, while on duty, were
7 dispatched to investigate a "battery domestic violence" at a residence located in the city of Los
8 Angeles, California. Witnesses heard Respondent and the victim, Respondent's boyfriend,
9 arguing at Respondent's apartment. The victim stated to the officers that the Respondent had cut
10 him on the top of his right wrist in a single chopping motion with a 12" kitchen knife. The victim
11 was treated for a 3/4 inch laceration to his right wrist with 4 stitches. After obtaining statements
12 from witnesses and observing the laceration on the victim's wrist, officers determined that
13 Respondent was the aggressor. The Respondent was subsequently arrested for violating Penal
14 Code section 273.5 [inflict corporal injury to spouse/cohabitant].

15 b. Complainant also refers to and by this reference incorporates the allegations set forth
16 above in paragraphs 19 – 21 and all subparagraphs, inclusive, as though set forth fully herein.

17
18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board issue a decision:

21 1. Revoking or suspending Registered Nurse License No. 659983, issued to Tamara
22 Vradiy;

23 2. Ordering Tamara Vradiy to pay the Board the reasonable costs of the investigation
24 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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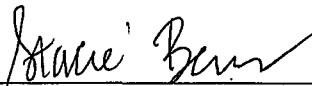
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3. Taking such other and further action as deemed necessary and proper.

DATED: JANUARY 19, 2013


for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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